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Statement of
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before the
House Subcommittee on Government Activities
and Transportation
House Committee on Government Operations

House 01503



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Mr. Chairman:

We are pleased to be here today to [comments on your bill to amend the Federal Property and Administrative Services Act of 1949 to reform contracting procedures and contract supervisory practices of the Federal Government]. We fully support your efforts to improve the management of the various activities of the General Services Administration. The recent disclosures of fraud and mismanagement, and GSA's long history of ignoring both internal and external audit reports detailing significant problems, makes it mandatory that Congress step in with corrective legislation.

Your bill prescribes improved procurement and contract administration practices, more stringent audit and reporting requirements, and changes to the procedures for approval of alterations to leased facilities. All of these are critical areas and need attention. We would, however, like to point out what we believe are some desirable changes to make this legislation more effective.

MULTIPLE AWARD SCHEDULES

I would like to discuss first GSA's \$2 billion multiple award schedule program. In accordance with your September 1978 request, we reviewed the effectiveness of GSA's management of this important program. Our report detailed many of the

significant problems which have plagued this program for over a decade. Among these were:

- Unrestricted growth of the multiple award schedule program to the point where the size of the program hampers effective management. At the time of our review, there were over 4 million items in the program.
- Lack of assurance that the best price was being obtained. This was due to inadequate time for negotiation, as well as unreliable information furnished by contractors.
- Federal agencies not buying the lowest cost items to meet their needs and buying on the open market. GSA had no idea what these agencies were buying, nor in what quantities. GSA did not believe it had the authority to monitor and enforce its procurement regulations.
- Failure of GSA to maximize the use of competition by developing commercial item descriptions which would serve as the basis for obtaining bids. We found lower prices, in many cases, being obtained by States that did maximize competition.

All of the foregoing problems, as well as many more, have been known to GSA for years. (In 1971, GSA's internal auditors reported that substantial savings could be realized if GSA competed multiple award items; The recommendations of the study were never adopted.) During the past several years, GSA management has launched several initiatives designed to improve the multiple award schedule program. All have failed, either because of management apathy or organizational diffusion of responsibility. During this period of time, GAO also issued

several reports recommending improvements in the program. Most recommendations were never implemented.

In our most recent report, we made several recommendations to GSA that would contribute toward significant improvements in the multiple award schedule program. GSA agreed and currently is in the process of implementing many of them. In our opinion, however, recommendations to GSA alone were not sufficient and we, therefore, made two recommendations to the Congress. These were to:

- Put GSA under a mandatory time frame for accomplishing management improvements. We consider this necessary because of GSA's poor track record in solving its problems internally.
- Strengthen the posture of GSA as a primary supplier of products to the agencies. We consider this necessary because (1) there continue to be significant amounts of open market purchases by agencies for products which GSA manages and (2) GSA can maximize its cost effectiveness only if agencies must use it as a primary source of supply.

Your proposed legislation does address some of our concerns with respect to:

- Strengthening the role of GSA as the primary supplier of products to agencies.
- Requiring competitive procurements whenever feasible.
- Increasing audit activity over the procurement process.

We would also prefer to see a clear legislative mandate for a complete review and evaluation of the need for and methods of procurement of every item on the multiple award schedules within some reasonable period of time. (The multiple award schedule is so big, and has been subject to such mismanagement, that it deserves special attention in this legislation so that GSA officials cannot mistake the congressional intent.

CERTIFICATIONS REQUIRED

The bill provides that every person who enters into a contract or agreement with respect to a procurement, transfer, or disposition of property or services certify that he (1) has furnished all information required by the Administrator and will furnish all such information, and (2) has not or will not furnish false information.

The proposed legislation is not clear as to the specific information requiring certification, and legal enforcement may be difficult, if not impossible, unless these requirements are clarified. As you know, there already are procurement regulations that require contractors to certify to cost and pricing data furnished in connection with most negotiated contracts over \$100,000. These regulations afford the Government the opportunity to effect price adjustments when the data

submitted is not current, complete, or accurate, and the Government relied on that data in arriving at the contract price.

As we read the proposed legislation, it also requires contractors to submit certified information with respect to advertised procurements. This would be a major change in procurement philosophy by the Government since it has long been the belief that the competitive forces of the market place obviate the need for the types of procurement controls and price analysis required when contracts are negotiated. Of course, there is always the possibility of contractors--under competitive awards--delivering products that do not meet specifications or quality standards in which case there already are contractual remedies available to the Government.

If it is your intent to strengthen the remedies available to the Government--we suggest that these provisions be clarified. This is particularly important if the Government is to impose financial and other penalties on contractors. Also, the proposed legislation would delete the remedies available to the Government under 40 U.S.C. 489(b). That provision affords broad protection to the Government if properly enforced. It provides financial penalties for any person who engages in fraudulent means of securing

any payment, property, or other benefit from the United States in connection with the procurement, transfer, or disposition of property. Therefore, the Subcommittee may wish to consider whether its deletion is advisable.

DETERMINATION OF PROCUREMENT NEEDS

The bill provides that agencies establish a system of reporting purchases made through various GSA programs as well as any other sources the Administrator may designate. While we agree that GSA needs to obtain much greater knowledge of what agencies are buying and from whom, we are concerned that this provision may place a severe administrative requirement upon the agencies and generate a significant amount of additional paperwork.

As an alternative, as GSA makes changes in the multiple award schedule system, it should explore other ways to gather the needed data. Also, one of the ways GSA can obtain greater knowledge of agency procurement practices is through the reports that are submitted by contractors for sales under the multiple award program. Currently, these reports are submitted monthly but do not provide sufficient information for management purposes. We believe they could be more meaningful if information were requested on sales by item and/or model number as well as the name of the procuring office. These reports could be requested quarterly rather than monthly.

DOCUMENTATION REQUIRED

We also are concerned that the proposed legislation may result in excessive documentation. For example, the requirements include preparing a memorandum covering (1) the nature of and parties to any discussions or communication pertaining to any decision, (2) a description of the action involved, (3) any schedule of planned future discussions, and (4) details as to the responsible Federal employee. These requirements could generate a papermill in view of the millions of such decisions that occur annually. The subject of contract file documentation is a difficult one, and may not really be susceptible to corrective legislation. The degree of documentation must depend on the judgment of procurement officials based on the nature of the decisions, the dollar amounts involved, and the types of contracts. We would like to suggest that you modify the language to require GSA to promulgate reasonable regulations requiring documentation of key procurement events, and requiring the GSA Inspector General to report annually on the compliance with those regulations.

ALTERATION OF LEASED FACILITIES

With respect to the section of the bill on alteration of leased facilities, it addresses our concerns on the need

for closer congressional scrutiny of alterations to leased space. We suggest one addition to this section of the bill. That is, the 25 percent Economy Act limitation on alterations to leased buildings be repealed. We found that it is not an effective mechanism for limiting and controlling the amount expended for leased building alterations. The congressional approval procedure provided in the bill should be adequate to prevent undesirable alteration projects.

In closing, we want to give our strong endorsement to the Subcommittee's objectives of eliminating fraud, waste, and abuse in GSA procurements. We recognize that the proposed legislation is an important first step toward achieving these objectives. Framing legislation to accomplish the task requires careful effort. We will be happy to work with your staff in revising the bill along the lines as we have discussed.

This concludes my prepared statement. I will be happy to answer any questions that you may have.